

REMARKS

Reconsideration of the application as amended is respectfully requested.

Specification and Drawing Amendments

By the amendment of Figure 1, Applicant has addressed Specification comment 5 regarding the fact that “page 10, line 12, [of] the disclosure refers to figure 1 elements 300 and 500 that are not in figure 1 but are described in figure 2.” Replacement Figure 1 has the microclimate model labeled as “300” and the animal model labeled as “500.” The specification was, therefore, left unamended. Please note that the replacement sheet for Figure 1 that was submitted on 10/19/2005 in response to the first office action mistakenly omitted all of the labels provided on Figure 1 as it was originally filed on 08/23/2001. Applicant apologizes for this mistake. The currently submitted replacement Figure 1 has simply replaced the labels as originally filed.

By the correction of Figure 1, Applicant has also partially addressed Specification comment 6 regarding the fact that “page 52, line 29 states ‘animal characteristics data 190,’ however figure 2 states ‘animal characteristics’ as 170” (comment 6). The currently submitted replacement sheet for Figure 1 now has the animal database 190 and animal data 170 properly labeled.

The comment is further addressed by amendment of Figure 2, so that the relevant box reads “set of animal characteristics *data* 170” (addition of the term “data”) to further clarify.

The comment is still further addressed by amendment of the referenced paragraph to clarify when the databases versus their respective data are referenced and to refer to Figure 1.

The appended corrected drawings (for Figures 1 and 2) address comment 7 regarding the drawings, i.e., that they do not refer to elements 120, 190 and 540. As discussed above, the labels for 120 and 190 were mistakenly omitted from Figure 1 when the previous replacement sheet was submitted. As per label “540”, please refer to Figure 2, it is referenced in the box reading “Calculate heat fluxes 540 including Heat Losses 541.” Since the examiner missed the “540” reference, other readers may also. For that reason, Applicant has put the label in bold to

make it stand out more. The calculation of heat losses 541 is a sub-step of calculating heat fluxes 540 (see, e.g., p. 23, L 29-30).

Claim Amendments

1. Claim Objections (point 4, p. 2). The objection states that the limitation of “the set of microclimate conditions” and “the set of animal characteristics” in Claim 94 did not have antecedent basis within the claim and suggests deleting the article “the.” Claim 94 has been cancelled. Though this point mentions that this sole example listed “may not be inclusive,” Applicant can find no other claims with reference to an element without proper antecedent basis.

However, Applicant has clarified certain of the language to more clearly match subsequent references to their antecedents as in the following:

- a) “a data set of the plurality of environmental conditions” is now subsequently referred to in the same claim as “the data set of environmental conditions” (previously, “the set of environmental conditions data”); see Claims 1 and 36; and,
 - b) “a data set of characteristics of the animal” is now subsequently referred to in the same claim as “the data set of animal characteristics” (previously, “the set of animal characteristics data”); see Claims 1 and 36.
2. Claims 94, 95 and 96 (comment 8, p. 3). Though Applicant disagrees with the present Office Action assertion that Claims 94-96 are obvious over the prior art under 35 USC 103(a), Applicant has nevertheless cancelled these claims.

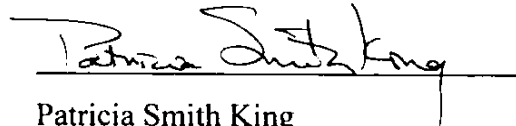
The examiner states in this comment that “In considering patentability of the claims under 35 USC 103(a), [he] presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.” Applicant wishes to point out that at filing, i.e., on 08/23/2001, applicant included in the transmittal of this application an “Explanation, including ownership of various claims at the time the last claimed invention was made” (see Image File Wrapper, “Transmittal Letter” dated 08/23/2001). In that statement, it is

explained that Porter is inventor of all claims with Mitchell as co-inventor on claims 11, 48, 61, 81 and 86 only. Porter is therefore, sole inventor, of Claims 94-96 at issue in this comment. Applicant has, therefore, from the very first filings, provided all information of relevance to this case in a forthright and honest manner meeting, if not exceeding, Applicant's duty of candor under 37 CFR 1.56.

Conclusion

For the foregoing reasons, Applicant submits that the specification, drawings and all remaining pending claims, and their pending dependent claims are now in proper form and clearly and patentably distinguish over the prior art. Therefore Applicant submits that this application is now in condition for allowance, which action Applicant respectfully solicits. No new matter has been added.

Date: 07/18/2006



Patricia Smith King
Registration No. 41899
King Research & Law
10 E. Doty Street, Ste. 800
Madison, WI 53703
1-608-231-2988
Customer No. 22224